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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,294	04/23/2001	Toshiaki Watanabe	206276US-2	2996
22850	7590	12/15/2004		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER GAGLIOSTRO, KEVIN M	
			ART UNIT 2615	PAPER NUMBER
DATE MAILED: 12/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/839,294

Applicant(s)

WATANABE, TOSHIAKI

Examiner

Kevin M. Gagliostro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/23/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 9, and 10 is/are rejected.
- 7) ☒ Claim(s) 2-8, and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner:  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/23/01
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

#### ***Drawings***

1. Figures 10a and 10b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for rejections under this section made in this office action:

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 9, and 10 are rejected under 35 U.S.C. 102<sup>e</sup>(b) as being anticipated by U.S. Patent No. 6,124,891 to Homma et al.

Homma clearly shows all of the limitations cited in claim 1. See all material cited in the specification. Referring to claim 1, Homma describes an exposure control apparatus which determines an exposure based the luminance photographic screen and performs exposure control based on the determined exposure value, said exposure control apparatus comprising:

An area generating unit which divides the photographic screen into a predetermined number of areas, or in this case image plane A and light measuring area B (figures 4 and 5), which is determined through the inside-light-measuring-area detecting circuit 101 (figure 3, item 101) and outside-light-measuring-area detecting circuit 102 (figure 3, item 102) and (column 6, lines 51-67 and column 7, lines 1-21).

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A deciding unit which decides, for each area generated by said area generating unit, whether a main subject having a high luminance exists within that area. Specifically, the deciding unit is described in Homma as being comprised of an object position determining circuit 104 (figure 3, item 104) which is arranged to determine the current position of an object's image within the image plane on the basis of the luminance level difference between the inside and outside of the light measuring area, a light measuring area shifting circuit 105 (figure 3, item 105) which is arranged to shift the light measuring area to the object's position determined, and a light measuring area position signal (figure 3, item 106) arranged to generate a signal which indicates the current position of the light measuring area within the image plane and is produced in the form of an HV composite sync signal in synchronism with the sync signals.

An average luminance calculating unit which calculates an average luminance in the area generated by the area generating unit according to the decision result by said deciding unit. Specifically, the average luminance calculating unit is described in Homma as the signal level detecting circuit 9, which produces an exposure control signal indicating either the average value of the video signal obtained from the inside of the light measuring area B (figure 2, item 9) and (column 12, lines 59-64).

And an exposure value determining unit which determines an exposure value based on the average luminance in the area calculated by said average luminance calculating unit. Specifically, the exposure value determining unit is described in Homma as an exposure control signal that is generated from the signal level detecting circuit 4 (figure 1, item 4) and (column 1, line 32-40).

Homma clearly shows all of the limitations cited in claim 9. See all material cited in the specification. Referring to claim 9, Homma describes an exposure control apparatus which determines an exposure based the luminance photographic screen and performs exposure control based on the determined exposure value, said exposure control apparatus comprising:

An area generating unit which divides the photographic screen into a predetermined number of areas, or in this case image plane A and light measuring area B (figures 4 and 5), which is determined through the inside-light-measuring-area detecting circuit 101 (figure 3, item 101) and outside-light-measuring-area detecting circuit 102 (figure 3, item 102) and (column 6, lines 51-67 and column 7, lines 1-21).

A deciding unit which decides, for each area generated by said area generating unit, whether a main subject having a high luminance exists within that area. Specifically, the deciding unit is described in Homma as being comprised of an object position determining circuit 104 (figure 3, item 104) which is arranged to determine the current position of an object's image within the image plane on the basis of the luminance level difference between the inside and outside of the light

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measuring area, a light measuring area shifting circuit 105 (figure 3, item 105) which is arranged to shift the light measuring area to the object's position determined, and a light measuring area position signal (figure 3, item 106) arranged to generate a signal which indicates the current position of the light measuring area within the image plane and is produced in the form of an HV composite sync signal in synchronism with the sync signals.

An average luminance calculating unit which calculates an average luminance in the area generated by the area generating unit according to the decision result by said deciding unit. Specifically, the average luminance calculating unit is described in Homma as the signal level detecting circuit 9, which produces an exposure control signal indicating either the average value of the video signal obtained from the inside of the light measuring area B (figure 2, item 9) and (column 12, lines 59-64).

And an exposure value determining unit which determines an exposure value based on the average luminance in the area calculated by said average luminance calculating unit. Specifically, the exposure value determining unit is described in Homma as an exposure control signal that is generated from the signal level detecting circuit 4 (figure 1, item 4) and (column 1, line 32-40).

Homma clearly shows all of the limitations cited in claim 10. See all material cited in the specification. Referring to claim 10, Homma describes an exposure control apparatus which determines an exposure based the luminance photographic screen and performs exposure control based on the determined exposure value, said exposure control apparatus comprising:

An area generating unit which divides the photographic screen into a predetermined number of areas, or in this case image plane A and light measuring area B (figures 4 and 5), which is determined through the inside-light-measuring-area detecting circuit 101 (figure 3, item 101) and outside-light-measuring-area detecting circuit 102 (figure 3, item 102) and (column 6, lines 51-67 and column 7, lines 1-21).

A deciding unit which decides, for each area generated by said area generating unit, whether a main subject having a high luminance exists within that area. Specifically, the deciding unit is described in Homma as being comprised of an object position determining circuit 104 (figure 3, item 104) which is arranged to determine the current position of an object's image within the image plane on the basis of the luminance level difference between the inside and outside of the light measuring area, a light measuring area shifting circuit 105 (figure 3, item 105) which is arranged to shift the light measuring area to the object's position determined, and a light measuring area position signal (figure 3, item 106) arranged to generate a signal which indicates the current position of the light measuring area within the image plane and is produced in the form of an HV composite sync signal in synchronism with the sync signals.

An average luminance calculating unit which calculates an average luminance in the area generated by the area generating unit according to the decision result by said deciding unit. Specifically, the average luminance calculating unit is described in Homma as the signal level detecting circuit 9, which produces an exposure control signal indicating either the average value of the video signal obtained from the inside of the light measuring area B (figure 2, item 9) and (column 12, lines 59-64).

And an exposure value determining unit which determines an exposure value based on the average luminance in the area calculated by said average luminance calculating unit. Specifically, the exposure value determining unit is described in Homma as an exposure control signal that is generated from the signal level detecting circuit 4 (figure 1, item 4) and (column 1, line 32-40).

#### ***Allowable Subject Matter***

4. Claims 2-8 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim (Claim 1) and any intervening claims.

Regarding claim 2, the following is a statement of reason for the indication of allowance: "The exposure control apparatus according to claim 1, wherein said deciding unit counts pixels, each having a luminance higher than a predetermined luminance threshold, out of pixels forming the area and decides whether the count value of the high luminance pixels exceeds a predetermined count threshold; and said average luminance calculating unit calculates the average luminance by using the luminance per se of the high luminance pixel when the deciding unit decides that the high luminance pixel count value exceeds the predetermined count threshold; in contrast, said average luminance calculating unit substitutes a predetermined low luminance smaller than the predetermined luminance threshold for the luminance of the high luminance pixel so as to calculate the average luminance when the deciding unit decides that the high luminance pixel count value is equal to or smaller than the predetermined count threshold."

Regarding claim 11, the following is a statement of reason for the indication of allowance: "The exposure control method according to claim 10, wherein said deciding step counts pixels, each having a luminance higher than a predetermined luminance threshold, out of pixels forming the area and decides whether the count value of the high luminance pixels exceeds a predetermined count threshold; and said average luminance calculating step calculates the average luminance by using the luminance per se of the high luminance pixel when the deciding step decides that the high luminance pixel count value exceeds the predetermined count threshold; in contrast, said average luminance calculating step substitutes a predetermined low luminance smaller than the predetermined luminance threshold for the luminance of the high luminance pixel so as to calculate the average

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luminance when the deciding step decides that the high luminance pixel count value is equal to or smaller than the predetermined count threshold."

Claims 3-8 are objected to as being dependant upon the objected claim 2.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Gagliostro whose telephone number is 703-308-6070. The examiner can normally be reached on 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin Gagliostro

12/09/2004

  
NGOC YEN VU  
PRIMARY EXAMINER